

# Sexual Harassment—

New Rules / New Roles  
for Today's Workplace

## **Participant's Booklet**

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*"I would urge women and men to appreciate the deep but differing fears the phenomenon referred to as 'sexual harassment' engenders in the other. Men should try to understand women's abiding fear of male violence and their reluctance to offend by stating that some-*

*thing makes them uncomfortable. This, I think, is what lies behind the familiar refrain that some men 'just don't get it.' But women, for their part, should try to understand men's fear of being falsely accused, of having a woman they felt protective toward turn on them and destroy them. This is a sense in which some women just don't get it."*

Deborah Tannen, Ph.D.  
*Talking From 9 To 5*

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# **New Roles for Today's Workplace**

Today's workplace is a far different place than it was just a generation ago. Certainly, breakthrough technologies and computerization have changed the ways in which we work, the methods we might use. But it is the sexual integration of the workplace—men and women working side-by-side in greater numbers than ever before—which has had the most profound direct effect on our lives at work, the ways in which we behave and interact. The stereotypical roles of "man" and "woman" recognized by past generations are passing away. We all must learn new roles for today's workplace.

## **Changing Work Roles**

**“This is a man’s job.”**

**“That’s women’s work.”**

When we studied ancient civilizations in school, we were often told that the men were hunters and the women tended gardens, or that the men were warriors and the women raised the families. Part of learning about a culture entails learning the differences between the men’s and women’s roles in that society. When future school children learn of late-20<sup>th</sup> century American culture, they will learn that men worked in manufacturing, or agriculture, were doctors, lawyers, soldiers, teachers, etc. They will also learn that women . . . well . . . women worked in manufacturing, agriculture, were doctors, lawyers, soldiers, teachers, etc. The previously sharp differences in our work roles as men and women have diminished in the past few years.

This is a big change. And a change like this doesn’t happen easily, and without some growing pains. It takes some adjustment in our attitudes, and some alterations in our behavior in order to make this kind of change work. And if we ignore the change, or resist it, then harm can result.

## **Failure to Change**

Sexual harassment is an example of the kind of harm which can result when an individual or group fails to adjust attitudes and behaviors to meet the new realities of today’s work environment. Sexual harassment should never be considered a natural and expected by-product of the changing work environment; rather, it is an unacceptable form of behavior which indicates that the change is being ignored or even resisted.

What harm is done by sexual harassment? Well, it's safe to say that sexual harassment harms nearly everybody. Obviously, the victim is harmed. The harasser is often required to pay direct monetary damages, suffers loss of job or status, and earns an unsavory reputation. The organization has lower morale and lower productivity from its employees, receives negative publicity, and often pays high-dollar settlements for damages. (One recent San Francisco court case awarded over *\$7 million* to the plaintiff Rena Weeks, who sued her former employer, the law firm of Baker & McKenzie.)

### **Seems Like Common Sense, Doesn't It?**

So, we've discussed some points which seem to make a lot of sense:

1. The stereotypical work roles for men and women have diminished and today's workplace is more sexually integrated than ever before in our history.
2. This is a big change.
3. When some people ignore or resist this change, harmful things like sexual harassment can occur.
4. Sexual harassment harms everybody: the victim, the harasser, and the organization as a whole. Everybody loses.

If this makes so much sense, then why is sexual harassment such a controversial topic? Why do company policies preventing sexual harassment generate so much more confusion, frustration, and concern than do policies forbidding employee theft, or regulating personal phone calls? Why do seemingly reasonable men and women tend to come unglued when the topic turns to sexual harassment in the workplace?

## What Are We Afraid Of?

Sexual harassment brings out fears in both men and women. The problem is, men and women are not afraid of the same things.

Before we can deal with what sexual harassment is and how we can prevent it in the workplace, we need to address the fears that men and women have, how the opposite sex might initially react to these fears, and how we can all accept and understand these fears as legitimate and important factors to consider when we discuss sexual harassment.

Now, please remember that we are talking in some generalities here. The fears we will describe aren't felt by every single man or woman. But it's important to understand that enough people feel this way to have a significant effect on our understanding of sexual harassment.

### Men Are Afraid Of . . .

#### False accusations

Sexual harassment complaints often involve conduct that is witnessed by no one other than the complainant and the alleged harasser. The possibility exists that a person could falsely accuse another of harassment and the accused would have little defense other than the old "yes you did—no I didn't" debate.

To women, this might sound like men think women are manipulative liars and can't be trusted to tell the truth. It reminds some of early English rape laws which required that a man could only be convicted of rape if there were at least two other witnesses to testify to the crime. But the possibility does exist that a man could be falsely accused and this gives rise to their legitimate fear that they might fall victim to this scenario. Michael Crichton's best-selling novel, *Disclosure*, is about just such an event. In the novel, a man is

falsely accused of sexual harassment by a women seeking to eliminate him as a competitor for power in the company. While women may scoff at the actual likelihood of that happening, men would be quick to point out that the novel was based on a true story.

### Misinterpretation of conduct

As the laws and court decisions regarding sexual harassment continue to evolve, it seems as if the definition of what is acceptable behavior and what is unacceptable behavior changes daily or weekly. Men fear that even innocently-intended conduct may be interpreted as harassment. Sexual harassment policies often seem full of gray areas, with very few black-and-white guidelines to keep one's self out of trouble.

Women might suggest that most men know precisely what they are doing when they are sexually harassing someone. But the fact remains that sexual harassment case law is still evolving and developing. While the broad strokes are there, some "i"s are still being dotted and a number of "t"s remain to be crossed. For some men, this is not a baseless fear.

### Skeletons in the closet

As new standards of behavior are defined, some men may realize that their actions in past years would not meet the new accepted standards of conduct. Even in the past, their behavior may have been regarded as rude, offensive, or ungentlemanly—but they didn't know they could be sued for it. Will they find themselves trying to justify behavior from years ago, explaining incidents they may not even recall? Is it fair to apply today's standards to yesterday's behavior?

Before women dispute this fear as unfounded, they should consider how men perceive the cases of Senator Bob Packwood, Justice Clarence Thomas, and other less prominent men who have been publicly accused of harassment which allegedly happened five, ten, or even twenty years ago.

## **Women Are Afraid Of . . .**

### **Physical violence**

The possibility of being physically assaulted ranks as a common and significant fear for women, and incidents of sexual harassment often cause women to fear for their physical safety. A woman who receives leering glances and wolf whistles as she walks down the street is far more likely to be intimidated than flattered. An unwelcome sexual advance often starts a woman's fears racing down the continuum of possibilities: "Will he keep pestering me? Will he follow me back to my office? Will he follow me home? Will he stalk me? Will he force himself on me? Will he hurt me? Will he rape me?"

Many men feel angry or upset that women would think something like this. "Wait a minute," they might say, "just because I jokingly tell a woman that the way she looks today really lights my fire, she's afraid I'm going to rape her? Isn't that a little extreme? It's just a joke!" Well, maybe so. But the fact is, some men do commit violent acts against women, and the fear of rape or other personal violence is never far from many women's minds, even at work. In fact, the leading cause of death for women in the workplace is murder (for men, it's accidents). A hint of violence is often perceived in the casual remarks made by men, whether intentional or not. Note the language used in the following examples, taken from the book *Talking From 9 To 5* by Dr. Deborah Tannen, a professor of linguistics:

*A man told me he was riding in a car with a friend when an attractive young woman crossed the street in front of them. "I want to nail her properly," his friend said. When I heard this, I was taken aback. Nail her? I thought. Is that the impulse that an attractive woman engenders? Nailing? Another man told me that a co-worker said, in describing a woman they both work with, "She's wearing her knock-me-down-and-(expletive)-me shoes." I was pretty sure the woman thought she was wearing her "look-at-me-and-notice-me" shoes. Maybe even her "admire-me-and-move-me" shoes. But knock me down?*

This link between sex, language, and violence is so common that many men don't even think about it. For example, we often describe Casanova-like men engaging in "sexual conquests." Also, when a man gets a woman pregnant he "knocks her up." How many other examples can you think of? It's no wonder that these kinds of remarks are offensive to women. And it's no wonder that many women sense the potential for violence when they experience sexual harassment.

### Power plays

Women fear that sexual harassment is yet another means by which men reinforce or redistribute the balance of power in a relationship, compromising women's effectiveness in the workplace. In short, many women view sexual harassment as a power play in which women are the losers.

"Wait a minute," men say. "What's all this talk about power? I certainly don't feel very powerful. Sure, maybe if the boss is propositioning the secretaries, that's an abuse of power. But what if I don't have any power?"

Well, certainly, the classic example is the boss who uses sexual harassment to assert and maintain his dominance. But even among peers, or between subordinates and supervisors, sexual harassment can be used by men against women to “put her in her place” and adjust the balance of power. Consider the following scenarios:

1. *Phil was having a hard time learning to use the new spreadsheet program on the computer network. “I swear,” Phil exclaimed, “this stupid program won’t let me cut-and-paste between columns. I’m gonna have to type all this stuff in twice.” Sheila, a co-worker, overheard Phil’s comment, and called to him from across the room, “Just select the cells you want to copy and press the F5 key. Then use the mouse to drag them where you want them.” “You can’t teach an old dog new tricks, Sheila!” laughed Phil’s buddy, Dave. “Yeah, yeah, yea,” Phil responded, “that’s okay, Sheila, you come on over to the Holiday Inn with me and this old dog will show you a trick or two!”*
2. *It’s bad enough to be sitting around like an idiot dressed in this piece of paper with a slit up the back, Terrence thought as he sat in the doctor’s examining room. But to get an insurance physical from a woman doctor? He could just imagine it—“Okay, now cough.” This was embarrassing! The doctor entered brusquely, preparing her stethoscope. “When I press this against you, I want you to breathe deeply,” she said, listening to his lungs. “Mmm, that sounds like fun,” Terrence said. “Then maybe I can press against you and make you breathe deeply, too!”*

It's clear that some verbal jousting is happening in each of these scenarios, and that sexual innuendo is the weapon of choice. When the men in these scenarios feel their status or control—their power—being threatened or diminished, they try to reassert themselves and regain some element of power. In these scenarios, the men do that by responding to the women in a sexual way, rather than behaving toward them as a man might toward a male co-worker, a male doctor, or a male boss. These men may not have positions of power over the women in these scenarios (in fact, the men are equal or subordinate in status to the women involved), yet they use the weapon of sexual harassment as a kind of power play to gain an edge in the relationship.

Women are legitimately concerned that sexual harassment can be used by men, consciously or unconsciously, to alter the balance of power and to keep them from advancing successfully in the workplace.

## **What Do We Do About These Fears?**

In order to deal successfully with the issue of sexual harassment, men and women must first come to respect the others' fears as legitimate and worthy of consideration. Otherwise, men and women often end up talking about entirely different issues and feeling as if their point of view is not being credited. You may recall the story of the blind men describing an elephant based on what they could feel—each seemed to be describing an entirely different beast because none could step back and see the animal as a whole. It's the same way when we talk about sexual harassment. We have to be aware of and sympathetic to the points of view of both men and women in order to fully understand the problem of sexual harassment and how to prevent it.

## **Accepting Our New Roles**

The roles men and women play in today's workplace are less defined by gender and more homogeneous than ever before. The gender of employees simply makes very little difference in most jobs. Many men who have been used to relating to women primarily in the role of mother, sister, wife, daughter, or secretary, must now learn to deal with women in the role of supervisor, peer, and colleague. It is difficult for some people to let go of the past and change to meet the future. But it is necessary. The productivity of our organizations is dependent upon every individual giving his or her best effort. That best effort can only be achieved when we accept our new roles and adjust our attitudes and behaviors to meet the new realities of our workplace.

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*“Sexual harassment is not complicated to define. To harass someone is to bother him or her. Sexual harassment is bothering someone in a sexual way.”*

Ellen Bravo  
Ellen Cassidy

*The 9 to 5 Guide to Combating Sexual Harassment*

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# What Is Sexual Harassment?

There are many words which can be used to define or describe sexual harassment in the workplace: offensive, unwelcome, abusive, demeaning. But there is one word describing sexual harassment which may be the most important of all to learn—illegal.

Sexual harassment is, first and foremost, an illegal practice which violates Title VII of the Civil Rights Act of 1964.

## **Sexual Harassment Is an Illegal Practice**

In 1964, Congress passed an important set of laws which became known as the Civil Rights Act of 1964. In addition to its measures to end racial discrimination, this bill also made illegal any workplace discrimination on the basis of sex.

In 1980, the Equal Employment Opportunity Commission, the federal agency charged with enforcing this part of the Civil Rights Act, released new guidelines which identified sexual harassment as an illegal form of sex discrimination.

These EEOC guidelines define sexual harassment as follows:

*“unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.”*

The EEOC guidelines state that such behavior is illegal sexual harassment when it meets any one of the following criteria:

*“(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,*

*(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or*

*(3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”*

Complaints of sexual harassment are commonly divided into two basic types: Quid Pro Quo Harassment, as described in criteria 1 and 2 above, and Hostile Environment Harassment as described in criterion 3. We will also talk about three other types of sexual harassment that can create hostile environments—Third-Party Harassment, Sexual Favoritism, and Sex-Based Harassment.

## Quid Pro Quo Harassment

One of the most obvious and blatant forms of sexual harassment is referred to as *quid pro quo* harassment. *Quid pro quo* is a Latin term which can be translated “this for that.” It means giving something in return for getting something—the old proposition, “You scratch my back, I’ll scratch yours.”

In many sexual harassment cases, this proposition becomes: “You engage in sexual activities with me, and I’ll give you a raise (or promotion, better schedule, etc.).”

Typically, this form of harassment occurs when a boss, or someone with the authority or power to affect an employee’s working conditions, offers a subordinate certain job-related benefits in exchange for sexual favors, or denies such job-related benefits of the employee does not submit to sexual advances.

This kind of behavior is by no means of recent origin, nor are the perpetrators always men and the victims always women. Indeed, some of the world’s oldest literature describes cases of what we now call *quid pro quo* harassment. Take this story from the days of the Bronze Age in Egypt involving an employee named Joseph and one of his supervisors. Joseph (an Israelite better known as the owner of a multicolored coat) was employed by Potiphar, an Egyptian and captain of the Pharaoh’s guard. Joseph was the overseer of Potiphar’s household, a highly-trusted position, and reported to no one but Potiphar himself—and Potiphar’s wife.

*Now Joseph was well-built and handsome, and after a while his master’s wife took notice of Joseph and said, “Come to bed with me!” But he refused. . . . And though she spoke to Joseph day after day, he refused to go to bed with her or even be with her.*

*One day he went into the house to attend to his duties, and none of the household servants were inside. She caught him by his cloak and said, "Come to bed with me!" But he left his cloak in her hand and ran out of the house.*

*When she saw that he had left his cloak in her hand and had run out of the house, she called her household servants. "Look," she said to them, "this Hebrew has been brought to us to make sport of us! He came in here to sleep with me, but I screamed. When he heard me scream for help he left his cloak beside me and ran out of the house."*

*She kept his cloak beside her until his master came home. Then she told him this story: "That Hebrew slave you brought us came to me to make sport of me. But as soon as I screamed for help, he left his cloak beside me and ran out of the house."*

*When his master heard the story his wife told him, saying, "this is how your slave treated me," he burned with anger. Joseph's master took him and put him in prison, the place where the king's prisoners were confined.*  
(Genesis 39:6-20, New International Version)

Clearly, Joseph was the victim of quid pro quo sexual harassment. His employer requested him to perform sexual favors. He refused and the employer retaliated by having him arrested and charged with attempted rape. Had Joseph been living in the United States in the late 20<sup>th</sup> century rather than enslaved in Egypt in the Middle Bronze Age, this story might have ended differently. Joseph could have filed a complaint with the EEOC and sued his employer for sexual harassment.

How common is it for men to be victims of this type of sexual harassment? Not very. Survey results vary widely, but women are still the predominant victims of this type of harassment by a large margin.

Many experts state that sexual harassment has little to do with sex and much to do with abuse of power in the workplace. And at least until recent years, men have possessed most of this power. The stereotypes of bosses chasing secretaries around convention hotel rooms, Hollywood directors auditioning starlets on the casting couch, and successful women derided as “sleeping their way to the top” are all examples of this lopsided, unequal power equation.

Regardless of the motivation for this conduct, be it lust or power, quid pro quo harassment is offensive, abusive, demeaning, and—illegal.

## **Hostile Environment Harassment**

Unwelcome sexual conduct can also be considered illegal sexual harassment, according to the EEOC guidelines, when it “has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.”

This type of sexual harassment claim is much more common, and more confusing. Quid pro quo harassment is straightforward and easy to identify. Hostile environment harassment involves a variety of more subtle and complex behaviors.

Federal laws, such as Title VII of the Civil Rights Act, not only protect persons from discrimination in the terms, conditions, or privileges of employment, they also grant employees the right to work in an environment free from ridicule, insult, and intimidation that has a discriminatory effect.

When an employee is subjected to unwelcome sexual conduct that is offensive, such that it unreasonably interferes with his or her ability to perform a job or with their psychological comfort on the job, then that conduct constitutes illegal sexual harassment.

What kinds of conduct can result in claims of hostile environment sexual harassment? The conduct can be *physical, verbal, or nonverbal*.

Examples of physical conduct might include fondling, kissing, pinching, touching, massaging, or brushing against a person's body.

Verbal behaviors might include crude or obscene language, sexual innuendoes or double entendres, dirty jokes, discussing sexual activities, or unwelcome comments on a person's physical attributes.

Nonverbal conduct might involve sexually suggestive whistling or facial expressions, sexually explicit calendars or photographs displayed in a work area, and sending notes or letters of a sexual nature.

Are these kinds of conduct always considered to be sexual harassment? No.

The behavior must first be *unwelcome*. The person to whom the behavior is directed must not condone, invite, reciprocate, or participate equally in the conduct.

The behavior must next be *severe and pervasive*. A single, isolated or trivial incident does not usually give rise to a sexual harassment claim unless the behavior is severe, such as sexual assault or other physical touching. Less severe conduct must usually be repetitive or be part of a pattern of sexually offensive behavior. Whether the conduct is sufficiently severe or pervasive enough to create a hostile working environment can be determined only by examining all of the circumstances.

Finally, the behavior must *unreasonably interfere with an individual's work performance* or must create a *hostile work environment*—an environment that a reasonable person would find hostile or abusive.

It's important to remember that it's the impact of the behavior that's important, not the intent. "It was just a joke," may sound like a good defense at first, but if someone's conduct creates an offensive or hostile environment for others, it doesn't matter what the intent was; what matters is the impact that conduct has on others.

### **Third-Party Harassment**

Sexually harassing behavior does not have to be directed specifically toward an individual in order for that individual to make a claim. If sexual conduct in the workplace that is welcome and reciprocal for the persons involved creates a hostile environment for others, then that conduct may be considered third-party sexual harassment.

For example, let's say that Bill and Lisa work together in the same office with Theresa. Bill and Lisa have been friends for many years and have no secrets between them. In fact, each Monday morning, they like to brag to each other of the sexual exploits each engaged in the previous weekend and seemingly try to outdo each other in tales of passion and prowess. These personal conversations are not

are not offensive to either Bill or Lisa and would not constitute sexual harassment if Bill and Lisa were working by themselves in a private office. However, their conversations are held in the presence of Theresa who finds them very offensive and hates even coming to work on Monday because she has to put up with “such trash.” Theresa has told Lisa that she doesn’t like to hear them talk about their sex lives in her presence, but it hasn’t done any good. Bill and Lisa’s behavior has created a hostile work environment for Theresa. Theresa is the victim of third-party sexual harassment.

## **Sexual Favoritism**

Unwelcome requests for sexual favors in return for employment opportunities or benefits constitute quid pro quo harassment, as we have discussed previously.

But what if the sexual advances are welcomed?

Suppose that Tony’s supervisor, Muriel, offers Tony a promotion he wants, but only if he agrees to have a sexual relationship with her. Tony views this as a win/win situation and takes Muriel up on her offer. Since Tony welcomes Muriel’s behavior, this does not constitute quid pro quo harassment. Does this mean that Muriel’s conduct is okay?

Not at all. When employment opportunities or benefits are granted because of an individual’s submission to the employer’s sexual advances or request for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

This is called sexual favoritism and it's just as illegal as other forms of sexual harassment.

## **Sex-Based Harassment**

Harassing conduct does not necessarily have to be "sexual" in content in order to be sexual harassment. Any harassing conduct which is based on sex or gender can constitute sexual harassment.

For example, Jessica works for a domineering boss named Roger. Roger treats everybody pretty badly, but he seems to have a special animosity for Jessica. He has never once made a sexual advance or even a suggestive comment to Jessica, but he constantly puts her down with comments like "You're just a woman, what do you know?" and "What's wrong with you? That time of the month, I guess."

While not at all sexual, Roger's conduct is clearly sex-based. He treats Jessica the way he does because she's a woman. He would not say those same things to a man.

Such behavior can create hostile environment claims of sexual harassment just as easily as sexual innuendoes and advances can.

## **Exercise**

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On the following pages, there are ten short cases that are based on real events. Read each case and see if you can discover the type of sexual harassment depicted. The answers appear on page 59.

## What Type of Sexual Harassment Is It? \_\_\_\_\_

### 1. The Case of the Sudden Selection

At the office Christmas party, Sarah, the department manager, had a bit too much to drink. She spent the whole evening with Joe, one of her supervisors, since they were the only two unmarried people at the party. Toward the end of the evening, Janet, another supervisor, inadvertently overheard Sarah telling Joe that if he would take her home, she would show him a “really good time.” During the next several months, some of the other people in the department commented that Joe and Sarah seemed to be working late almost every night. Joe’s car had also been seen in the alley behind Sarah’s apartment at times when it seemed highly unlikely that they would have been conducting business.

Last week, the announcement was made that Joe had been promoted to Vice President, and that Sarah would be the new department manager. A number of the people in the department were upset over the news, because it was clear that Sarah was not the most qualified candidate for the position.

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 2. The Case of the Flustered Fiancé

Bill is 26 years old, six-foot three, and weighs 180 pounds. Lean and trim, Bill is all muscle. He works out at a fitness center three to four times a week and coaches little league soccer and baseball. He has blond wavy hair, blue eyes, and a gentle personality. Bill and Joanne, high school and college sweethearts, are engaged to be married and the wedding is set for May.

Betty is Bill's boss. She is the manager of the department. Betty is 34 years old, weighs 128 pounds, has light brown hair and brown eyes, and is considered very attractive.

Transcription excerpt from the 4<sup>th</sup> Circuit Court records:

**Attorney for the plaintiff:** "Bill, please tell the court exactly what happened on the evening in question."

**Bill:** "It was almost quitting time. She . . ."

**Attorney for the plaintiff:** [Interrupting] "Who?"

**Bill:** "Betty. Betty called me into her office. She closed the door and told me to have a seat. She said that she appreciated my loyalty and discretion, and that she needed my help on a special project. She said we could meet at her home that evening and spend quality time on the project. She also said that her husband was out of town and we would have privacy. At that point, she stood up, walked around her desk, and casually placed her arm on my shoulder with her, ah, body touching my arm and said that she would make sure that my loyalty and discretion were appropriately rewarded."

**Attorney for the plaintiff:** "So what did you say?"

**Bill:** "Well, I was flustered. I didn't expect it."

**Attorney for the plaintiff:** "I can see how you might have felt that way, but what did you say?"

**Bill:** "I told her I was tied up and couldn't make it."

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

### 3. The Case of the Wrathful Wife

The following conversation occurred between a wife and her husband.

“I don’t know what to do,” Debbie said to her husband. “We’ve got this hot office romance going on and it’s disrupting the office. Well, maybe not the whole office, but I sure don’t like it! I’m okay with romance, but to talk about their sexual exploits in front of me isn’t right. Today, I tried again to get them to cool it at the office. I asked them nicely to please hold their sex talk for the bedroom. They made a big joke about it and implied that maybe I was frustrated at home. That really made me mad. I don’t know what to do. It’s been going on for a month. I don’t want to make trouble. I guess I could talk with our manager, but it doesn’t seem to bother anybody else. They just laugh and tease the lovers. But it sure bothers me—I just wasn’t raised that way. My mother would have washed both their mouths out with soap!”

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

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#### 4. The Case of the Manly Nurse

Mrs. Johnston, the head nurse, runs her floor like an army sergeant. She is a stickler for patient care and is a holy terror if a patient complains about poor treatment from the staff. All the nurses grow anxious when she strides down the hall—except Tom.

Tom, six months on the job, is the only male nurse on the floor. Although Tom treats his head nurse with respect, she doesn't reciprocate. Mrs. Johnston constantly makes comments like, "You need to be more nurturing with the patients. But you're just a man, so I guess we can't expect too much," and "You're just like a man, all muscle and no brains."

Tom has become increasingly upset over the way that he is being treated. He knows his patient care is better than most, and he is a careful and considerate nurse. The last straw was his performance appraisal. He was rated only "fair" in almost all categories.

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 5. The Case of the Expectant Father

Rick is a good-looking man, 27 years old, married for three years, with a child on the way.

The following is a partial transcript of an interview conducted by an EEOC investigator.

**Investigator:** “Tell me what led you to file this complaint.”

**Rick:** “There’s this crazy woman, Cindy, at work who won’t leave me alone. She writes me love notes and leaves them on my desk. She is always touching me and brushing her body against me. She keeps asking me to stop by her place. I told her I’m married and not available, but she won’t take no for an answer. I told my wife what was going on and she got really upset. My wife told me to talk to my supervisor. Well, I did, and he just laughed and said that he wishes that he would be so lucky as to have a good-looking woman hanging all over him.

“So then I talked to the department manager. He was even worse than my supervisor. He acted like there was something wrong with me for not handling it myself. He was real busy and said he didn’t have time to deal with ‘personalities’ in the department and expected me to take care of it.

“Well, I tried. I told Cindy that if she continued to bug me that I would file a complaint against her. But she never stopped, so here I am. I really didn’t want to do this, but my wife is very upset and nobody at the company would listen. But now I’m worried about my job. Will my boss hear about this? Maybe I shouldn’t have come.”

**Investigator:** “Do you have copies of the notes that Cindy gave you?”

**Rick:** “Yes. I threw most of them in the trash, but I saved a couple of the worst ones.”

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 6. The Case of the Mobile Manager

Sue is 25 years old, unmarried, weighs 140 pounds, has a sweet, pleasant personality, and is a graduate of the William and Mary School of Fine Arts. She interviewed with Bob Williams for an entry-level advertising job as a creative writer.

Bob Williams is a department manager for a medium-size advertising agency. He is divorced, has two children, and is 42 years old.

Sue is one of three complainants in this case being investigated by the EEOC.

The following is a partial transcript of an interview between Sue and the EEOC investigator.

**Investigator:** “Was anyone else present during the interview?”

**Sue:** “No.”

**Investigator:** “Was the door to the office open or closed?”

**Sue:** “Closed.”

**Investigator:** “Tell me exactly what happened.”

**Sue:** “Well, he asked me the usual questions—you know, about my grade-point average, my summer jobs, why I wanted to work in advertising, and so on. But toward the end of the interview, he said that he was impressed with my personality and he thought that I would get along well with him. He said that it was real important that whoever was hired must be someone that was really nice to work with. I told him that I thought that I would enjoy working for him. He then asked me how I felt about travel. I told him that I enjoyed traveling. He said that the job would require occasional out-of-town trips with him, and in order to save on travel costs we might have to share a room. He smiled and asked me if this would be a problem for me. I didn’t know what to say, so I just sat there and looked at him. I felt embarrassed. Finally, I just blurted out that I’d have to ask my boyfriend. He then said the interview was over and that he would be in touch.”

**Investigator:** “Were you offered the job?”

**Sue:** “No.”

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 7. The Case of the Domineering Director

Jessica works for a domineering department director named Roger. Roger treats everybody pretty badly, but he seems to have a special animosity for Jessica. He has never made a sexual advance or even a suggestive comment to Jessica, but he constantly puts her down with comments like “You’re just a woman, what do you know?” and “What’s wrong with you? That time of month?”

Jessica is a strong-willed person and told Roger on several occasions that she did not appreciate the way that she was being treated. He told her that if she didn’t like it, she could quit.

Jessica then talked to Roger’s boss and asked him to make it stop. The big boss said that it was just Roger’s way, that he was tough on everybody, and not to take it personally.

Unfortunately for Roger, Jessica’s brother was an attorney. Her brother’s law firm helped Jessica bring suit against Roger and Roger’s company for sexual harassment. When Roger was served with a request for deposition, he said that the suit was the stupidest thing he’d ever heard of because he had never, ever made a sexual advance toward any woman at work—and he could prove it.

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 8. The Case of the Kissing Couple

It was the end of a long, hot day. Almost everybody in the office had already left. Bill, one of the computer operators, stuck his head in his supervisor's office.

**Bill:** "Hey Tom, you got a minute?"

**Supervisor:** "Sure, Bill, what's on your mind?"

**Bill:** "It's about Dave and Tammy. I feel awkward bringing this up, but I find their behavior here really inappropriate."

**Supervisor:** "In what way?"

**Bill:** "They walk around holding hands. They kiss in front of the rest of us. They make goo-goo eyes at each other all day. Surely you must have noticed."

**Supervisor:** "Have you said anything to them about it?"

**Bill:** "No. I thought it would be better if it came from you."

**Supervisor:** "I see. How long has this been going on?"

**Bill:** "At least a month. They seem to think they are the only people who have ever been in love. Frankly, it seems childish to me. It's not that I have anything against 'true love,' but it doesn't seem right for them to be kissing each other like they do in front of others. It's hard for me to get my work done with that happening in front of me."

**Supervisor:** "What do you mean, 'kissing each other like they do'?"

**Bill:** [Embarrassed] "Well, you know, real long, deep kisses."

**Supervisor:** "I see."

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 9. The Case of the Perturbing Promotion

Randy, an employee in the accounting department, was seated in the Human Resources Director's office.

**Human Resources Director:** "Well, Randy, what seems to be the problem?"

**Randy:** "I really don't know how to bring it up. It's about my boss."

**Human Resources Director:** "Let's see, you work for John, is that right?"

**Randy:** "Right."

**Human Resources Director:** "Okay, so how can I help?"

**Randy:** "Well, first of all, can this be between us?"

**Human Resources Director:** "I can't promise until I know what has happened, Randy. Let's hear it, and you'll just have to trust my judgment."

**Randy:** "Okay. I don't know what else to do. I've thought about this situation for weeks. John has been a great boss, and I really don't want to get him in trouble. But what's happened just isn't fair."

**Human Resources Director:** "Well, why don't you tell me what's going on?"

**Randy:** "It's about Katrina. She got promoted over a number of others who were frankly better qualified. And we think the reason she was promoted is because she has been seen with John, after hours, at places they had no business being since they are both married to others."

**Human Resources Director:** "Who's 'we'?"

**Randy:** "There are three of us in the section who were affected by Katrina's promotion. We've talked and I was nominated to come see you."

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## 10. The Case of the Blushing Blond

Sharon: blond hair, blue eyes, and very attractive, works as a shipping clerk in a short-haul trucking company. She is the only female in the section. She complained to her male supervisor that she was very uncomfortable about some of the things that the men said to her. He laughed her off and said that she was too sensitive. After talking to some of the other women in the company, she made an appointment with the personnel director.

The following conversation occurred at the initial meeting.

**Personnel Director:** “Well, Sharon, what can I do for you?”

**Sharon:** “This is embarrassing for me, but something has to be done.”

**Personnel Director:** “Tell me what is bothering you.”

**Sharon:** “The men in my section have nude pictures on the wall, and they constantly make references to me and those pictures. They tell dirty jokes in front of me and laugh when I blush. I have told them over and over that I find their behavior offensive, but they won’t stop.”

**Personnel Director:** “Did you report this to your supervisor?”

**Sharon:** “Sure, but he just laughed and said I was too sensitive. He said that they didn’t mean anything by it and were just acting like normal guys.”

**This is an example of:**

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Third-Party Harassment
- Sexual Favoritism
- Sex-Based Harassment

## Is It Sexual Harassment, Or Not?

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Identifying the type of sexual harassment is important. But it is also critical to be able to determine if an act is harassment or not. Please read the following five scenarios and see if you can determine which are violations of the law and which are not. The answers appear on page 59.

### Scenario #1

Jennifer has noticed that the new employee, Dave, is very attractive. She also observes that he isn't wearing a wedding band, and she hopes he's single and available. There aren't many interesting men in her section, and Dave seems like a pretty good prospect to her.

When they happen to meet at the coffee machine the next morning, Jennifer asks Dave if he'd be free to have lunch or dinner with her sometime, maybe take in a movie. Dave says, "Sure, how about tomorrow night, 7 o'clock?"

Is this sexual harassment? Why, or why not?

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## Scenario #2

Gloria is the most beautiful woman that Luther's ever seen. She works in his department. He's been trying to get her to go out with him for about three months now, but she's playing hard to get. She even had her boyfriend call Luther up and threaten him. But Luther is not deterred. He believes in love at first sight and knows that he and Gloria are destined to be together.

Luther writes another note to Gloria. This is the best one this week, probably the best one ever. He writes of his eternal love for her, offers glowing compliments about her many desirable physical features, and describes the pleasure he knows he can give her.

Luther got in trouble a couple of weeks ago for sending so many notes by the inter-office mail. But that's okay, he's learned her new direct fax line . . .

Is this sexual harassment? Why, or why not?

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### Scenario #3

Rick and Shannon share the cluttered space at the end of the hall all by themselves. It's no corner office with a view, but at least it's comfortable and private. And the two of them get along great.

"You look a little rough this morning," Rich says as Shannon drags into the office. Her squinting eyes give notice of the awful headache hammering at her temples.

"Worse than last month. The cramps are terrible. I almost wish I were pregnant again rather than suffer through this every month," Shannon replies.

"Well, Shan, I don't think I can help grant that wish, but I do have some ibuprofen," Rick offers. "You really ought to call my wife's doctor. He gave her some kind of medicine that really helped her."

"Thanks, Ricky, you're a dear. You got that doctor's number?"

Is this sexual harassment? Why, or why not?

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## Scenario #4

Frank is the only male nurse on the shift and that gets really bothersome sometimes. The female nurses always get together for their “girl talk” sessions and leave him to catch the phones and monitor the displays. He often feels ignored or rejected in the cafeteria while they sit around drinking coffee and comparing notes on the men in their lives. When he tries to join in their conversation, they always laugh and say something like, “Oh, you’re just a man. You wouldn’t understand anyway.”

It seems the only time they value having a male on the shift is whenever there’s some heavy lifting to be done. Need some big boxes to be moved? Call Frank. Got some kind of backbreaking chore to be done? Frank’s the man to call.

After handling a particularly trying case, consoling an emotionally distraught daughter in the waiting room, Frank hears one of the female nurses remark that he is “pretty sensitive for a guy.” His resentment boils over following this incident and the next day he requests a transfer to another department.

Has Frank been sexually harassed? Why, or why not?

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## Scenario #5

Jay is a reserved, quiet kind of guy. But this afternoon, as he's returning from lunch, he pauses to tell Clifford the new joke he's heard, which, uncharacteristically for Jay, has a rather bawdy theme. Clifford claims to know every tasteless joke ever written, but Jay's pretty sure he hasn't heard this one yet.

Unfortunately, Melanie walks by just as Jay is delivering the risqué punch line. She stops dead in her tracks and turns beet red as the men laugh together at the joke. When Jay and Clifford notice Melanie nearby, they turn an equally crimson shade of embarrassment and Jay stammers out an apology to Melanie for telling such a joke where she could overhear it.

Has Melanie been sexually harassed? Why, or why not?

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For Preview Purposes Only

## Fear of Flirting

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Lots of employees will read their organization's policy on sexual harassment and say, "Wait a minute! I can't flirt, or joke, or even look at a co-worker? What's this world coming to?"

Many married couples met their partners through work connections. Many happy relationships began because one employee asked another employee for a date.

That's a good thing.

The laws and guidelines governing sexual harassment are not intended to take fun out of the workplace. The workplace should not be a dreary, sterile environment devoid of human warmth.

By definition, flirting is a fun, shared activity. Harassment is . . . well . . . harassment. Most adults know the difference. Most adults know when they've crossed the line. Most adults know they are responsible for their behavior.

Some of us, however, need to become more sensitive to what offends others and be more aware of how our behavior affects others.

But remember, policies on sexual harassment are intended to make the workplace more comfortable, not less comfortable.

*“Most people make distinctions between how they talk to their best friends, to their children, and to their elderly relatives. Out of respect, they avoid certain behavior in the presence of certain people. The same distinctions must be applied at work.”*

Ellen Bravo  
Ellen Cassidy

*The 9 to 5 Guide to Combating Sexual Harassment*

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# When You Are Harassed

As we have learned, sexual harassment is nothing new. It’s been a part of human life through the ages. And the ways in which victims of harassment respond have become predictable, standard, and common.

## Common Responses to Sexual Harassment

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### Just Ignore It

One of the most common responses has been taught by parents to their children for generations. How many times has your parent said something like:

*Don't stoop to their level.*

*Don't even dignify that with an answer.*

*You shouldn't give them the satisfaction of a response.*

*Just ignore it.*

Ignoring harassing behavior is hard to do, however. The behavior still takes its toll on your self-esteem, emotions, and your effectiveness on the job. Your silence is only on the surface; below the surface, you still feel the stress.

### **It's My Fault**

Sometimes we make excuses for the harasser:

*It must have been a joke.*

*I shouldn't dress like this. I need to wear baggy clothes.*

*Maybe if I put on weight it would stop.*

*I shouldn't wear my hair like this. It's my fault.*

Many victims of sexual harassment blame themselves. They assume (incorrectly) that they have somehow brought on the harassing behavior. They believe that they invited the behavior in some way and can stop the harassment by simply changing their appearance, or by some other action on their part. This is rarely true.

## **Grin and Bear It**

Some victims try to placate their harassers, even comply with their sexual demands. They laugh at the offensive jokes, smile at the rude “complements” about their physical attributes, and just endure the harassment. Psychologists call this “learned helplessness.” It’s not a pleasant existence.

## **Fight Fire With Fire**

“Give as good as you get” seems to be the motto of some harassment victims. They may respond with an equally hostile or aggressive response to their harasser, matching them crudity for crudity, curse for curse. By responding in this way, the victim may only be upping the ante and bringing on further cycles of harassment and retaliation.

## **I Quit**

Many victims escape harassment by simply quitting their jobs. They would rather be unemployed than put up with the behavior at work. Such a response has severe costs for the victim (such as loss of income) and does nothing to prevent the harasser from continuing to harass others.

## **New Responses to Sexual Harassment** ---

The responses we’ve already talked about have been tried for generations. And yet the harassment continues. It would seem that those responses are not very effective.

In the last ten or fifteen years, victims of harassment have begun trying out a new response: bringing a lawsuit in court. This response has certainly been effective in raising corporate awareness of harassment as a problem in the workplace.

But bringing a lawsuit is a drastic and costly action, and should be considered as a last resort. Let's examine a simple four-step response which is proving effective in stopping sexual harassment. We'll briefly list the four steps, and then talk about each one in more detail.

### **Key Steps For Responding to Sexual Harassment**

- 1** Confront the harasser and ask that the harassment stop.
- 2** Document any continuing harassment.
- 3** Review your organization's policies and prepare your thoughts and notes.
- 4** Report the harassment to the appropriate person.

# Step 1

## **Confront the harasser and ask that the harassment stop.**

Okay, we put the hardest step first. Once you've mastered this step, the others are easy by comparison. In fact, in the majority of harassment situations, once you've performed this step the harassment stops and the other steps are not even necessary.

Sexual harassment is an intimidating event, one that makes confronting the harasser even more difficult in most cases. But the best initial course of action is to gather your courage and tell the harasser that his or her behavior is offensive to you and that you want them to stop it.

Sounds easy, doesn't it? What are you afraid of?

Some people avoid confrontations of any kind. They are afraid that the other person will get angry, maybe even violent. They fear being misunderstood, rejected, or retaliated against.

While these fears are not completely unfounded, you should remember that the law and public policy are on your side when you are fighting sexual harassment. You should also understand that there is an effective way to handle this interaction, a way of confronting that minimizes the possible negative outcomes. A confrontation should not be a temper tantrum; it should be a calm, reasonable attempt to resolve a problem. Let's look at a method for confronting in an effective way.

1. First, avoid attacking people directly; it's their specific behavior that's in question, not them generally. Describe the situation as you see it—what has their specific behavior been and how has that behavior affected you.

2. Use the word “I” when describing your feelings (“I feel really uncomfortable when *<specific behavior>* happens,”) instead of the word “you” (“when you do that, you make me really uncomfortable”). It's more accurate and less threatening.

3. Clearly ask that the behavior stop.

4. Check for understanding.

How do these steps look in action? Well, here are a couple of examples:

*John, I feel very uncomfortable when you stand so close to me and lean across my desk that way. And when you call me “Honey” I feel as if I am not being taken seriously as your co-worker. Please don't do that again. Do you understand me?*

*Debbie, I feel very upset that this has happened again. You have asked me out to dinner three times recently and each time I have told you that I am seeing someone and am not interested in dating you. I feel like you aren't listening to me. I want you to stop asking me out. Let's keep our relationship professional. Okay?*

Each of these examples shows a calm and reasonable effort to stop the offensive behavior. It's hard to imagine someone reacting angrily to such a reasonable request. And the demand that the behavior stop is clear and unmistakable.

Compare those examples of effective confrontation to the following examples of typical, but ineffective, confrontations:

*I'm sorry, John, excuse me, but when you do that, I know you don't really mean anything by it, but when you do that, you know, well, I guess I get a little bit, uh, uncomfortable . . . When you do what? . . . Oh, well, you kind of stand a little bit too close, you know what I mean? I mean this is really embarrassing and I don't want to hurt your feelings or anything. I probably shouldn't have said anything, but maybe you could try not to do that so much?*

*There you go again, Debbie! I've had enough of this! Can't you get a clue? I don't want to go out with you! You ask me all the time! What are you? Hard of hearing? I said no, I meant no! Quit being such a jerk about this!*

In the first case, our victim has fallen into the throes of “victim language”—an attempt to make a point without really making a point of it. In the second case, what recourse has been left to Debbie but to respond with equal anger and try to defend herself?

As you can see, effective confrontation is direct, but non-threatening. Effective confrontation is reasonable and calm, not aggressive and belligerent. Effective confrontation deals with the specific offensive behavior and does not attack the person.

How do you expect individuals to respond when you confront them in this way? Most people will naturally tend to be defensive and try to deflect or downplay your message. No one *likes* to admit that they have offended someone; it can be embarrassing and uncomfortable for the person you are confronting. They are likely to deny that anything happened. When this happens, you can respond something like this:

*Well, now that you are aware of how <this situation or behavior> makes me feel, I'm certain that it won't happen again.*

What if the person you are confronting wants to continue to debate or argue? Your most effective response is to keep repeating your same statement, in the same calm manner, and avoid getting into a debate over the issue.

Should you always try confrontation as your first step in responding to sexual harassment? Well, let's imagine the following confrontation taking place:

*Chris, when you push me up against the file cabinet and ask me to have sex with you, I feel very uncomfortable. And when you rub your hands across me and suggest that if I do have sex with you, it will help my chances for a raise, I feel like you don't value my work and are just seeing me as a body, not a co-worker. Please stop behaving that way.*

Ridiculous, isn't it?

Obviously, if you are the victim of quid pro quo harassment, or if the harassment involves physical sexual assault, it would be ludicrous to simply ask that such outrageous behavior stop. In those cases, you should skip this step and proceed directly through our model to Step 4 and report the incident immediately.



## Step 2

### **Document the harassing behavior.**

If your attempts to end the harassment by confronting the harasser have not been successful, then you must be ready to take further steps in order to make the harassment stop.

It is helpful to keep a written log of each incident of harassment. A contemporaneous record of events helps give legitimacy to your complaints and helps demonstrate the pattern of harassing behavior which may be occurring. This will help get better results from your organization or government agencies.

Include the date and time of each incident, the location where it took place, and a specific description of the incident with details as to what was done or said. Also describe how this incident made you feel or what effect the harassment had on you. Make note, also, of others who may have witnessed the harassment or of any evidence that may support your account.

It is best to keep this log in a bound book to which paper cannot be added. This will help refute any claim that you “doctored up” the log at some later time and falsified any entries. You can also mail a copy of the log to yourself and keep the sealed envelope with the postmarked date to show that the record was made in a timely manner, contemporaneous with the events described.

You may remember that when Anita Hill accused Clarence Thomas of sexual harassment during his Supreme Court confirmation hearings, the lack of documentation or other contemporaneous evidence weakened the credibility of her claims and made the Senate incapable of unequivocally resolving the conflict between her testimony and that of Clarence Thomas. Had Anita Hill pulled out a written log of those incidents from a sealed, postmarked envelope, her charges may have been dramatically strengthened.

## Step 3

### **Review your organization’s policies and prepare your thoughts and notes.**

Your organization should have a policy spelling out your options for complaining about sexual harassment. You probably already have read that policy and should be somewhat aware of its provisions.

As Step 3 in your response to an incident of sexual harassment, you should reread that policy and examine the options open to you.

Here are some general guidelines that are helpful to consider as you prepare to report the harassment you are experiencing. First, you should try to stay within the “chain of command” (start at the bottom and work up) when possible. In most cases, the appropriate person to talk to is your immediate supervisor. If your supervisor is not approachable—for example, if the supervisor is the person who is doing the harassing—then the supervisor’s boss or another trusted manager could be approached. If using the chain of command is not possible, the Human Resources department should be contacted.

Prior to the meeting, you should plan exactly what will be said. It helps to make some notes beforehand: an opening statement, the details of your complaint (who, what, where, when, how, etc.), and a closing question about what happens next. You should also identify the documentation that will be needed and have such information available for the meeting.

Dealing with sexual harassment can be emotionally trying and difficult in the best of circumstances. It helps when you have a complete understanding of what events are likely to occur once you make your complaint.



## Step 4

### **Report the harassment to the appropriate person.**

Remember that reporting sexual harassment is not a hostile act. You are not harming your organization by reporting harassment; it’s actually in the best interests of the organization to take action against such behavior.

Sometimes victims are reluctant to report harassment because to do so may require that they repeat words or describe actions which are embarrassing to them. If you are embarrassed to describe the harassment verbally, it is often effective to write down the specifics of what happened instead of describing it out loud.

You may also be reluctant to report the harassment because you think you won't be taken seriously, or that your complaint will be ignored. If you have this fear, just remember the following—you are probably reading this page right now because your organization bought these training materials for you. Your organization invested a significant amount of money in training on sexual harassment so that they could respond effectively to problems like those you may be facing. Your organization knows what this page says and expects you to report sexual harassment when it occurs. It's also likely that your organization has trained your supervisors and human resource people on how to listen to your complaints and take effective and appropriate action.

What will happen once you report the sexual harassment? Well, the person to whom you report the harassment should see to it that an investigation of your complaint is carried out promptly, that appropriate action is taken to stop the harassment (and perhaps to discipline those committing the behavior, if warranted), and that no retaliatory action is taken against you for making the complaint.

Should you be dissatisfied with the follow-up on your complaint, you should take your concerns to someone higher up in the organization and ask them to intervene and see that your concerns are met. **It is in the best interests of both you and your organization to make the harassment stop and resolve the problem without resorting to outside intervention, if at all possible.**

*“The fundamental problem is the old philosophical difference between equality and identity. Men and women may be equal, but they are not identical—and nobody knows what to do about the difference. In social situations, they celebrate that difference; in work situations, they are supposed to ignore it, which almost nobody manages to do. When women try to circumvent the difference by acting more like men, the men are resentful (and often confused). When women stick to traditional ‘female’ behavior, men tend to see them as mothers and/or lovers, not colleagues.”*

Maggie Gallagher  
*Business Month*, October 1990

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# **New Rules for Today’s Workplace**

Checkers is easier than chess. Most children learn to play checkers far sooner than they learn to play chess. The game board is well-marked, the game pieces well-differentiated from each other—you’re the red ones, I’m the black ones. The game’s interactions are well-defined, the pieces move in predictable, unchanging ways. In short, the rules are simple and well-defined. The game is easy to understand and fun to play.

It certainly would be easier if all our adult relationships and interactions could be governed by a simple set of rules, just like a child’s game of checkers.

It's almost impossible to create a simple, all-encompassing set of rules to prevent such problems as sexual harassment in the workplace. As we have learned, sexual harassment can be blatant or subtle. The list of specific acts that can be defined as sexual harassment—you can do this, but you can't do that—could never be considered complete and thorough.

It's rather like making a set of rules to avoid shark attacks while swimming in the ocean. Certainly, "Rule Number One—Don't swim with bloody pieces of fish attached to your body" makes a great deal of sense, but seems rather obvious and unlikely to prevent all incidents from occurring. And while "Rule Number Two—Don't ever go into the water" would effectively prevent problems, it's not a very realistic solution.

Having just described the problems inherent in establishing rules to avoid sexual harassment and the utter futility of even trying to do so . . .

## **Let's Write Some Rules!**

Our goal is to write some checkers-type rules—simple to understand, easy to follow, and based on clear principles without a lot of gray areas. Maxims for the workplace. The kind of rules a parent might set—easily defined and hard to debate.

In fact, let's make a rule to combat the more blatant forms of sexual harassment, and just to make it easier, we'll borrow one of the old rules mom or dad taught us . . .



# Rule #1

## Look, but don't touch.

Touching another person, particularly in a sexual way, is a clear way to create a problem. Unless the touching is a physical necessity of some particular job function, our touch conveys one of three possible meanings: 1) I am interested in you in a sexual way and want to increase our level of intimacy; 2) I want to show my platonic affection, support, sympathy, or encouragement; or, 3) I don't mean a thing by it—it's just a habit.

If the purpose of the touch is sexual in nature, then it has no business in the workplace. While the workplace may be a fine place to meet possible romantic interests, it's not the appropriate venue to engage in intimacies. We should save that for our own time.

If the touch is intended to convey completely innocent and platonic feelings, then there are other less ambiguous means available to express those feelings, methods of expression that are less open to misinterpretation by the recipient or others.

And if it is a habit—break it!

These, of course, are the “checkers rules” of touching. Don't do it. Period.

If, however, you happen to enjoy treading in the gray areas and know for certain that your co-worker enjoys and welcomes an occasional hug or kiss in greeting, then you can certainly hug and kiss away. But it's probably not necessary to do so. And it could be

subject to misinterpretation. Just remember, if we mean nothing by it, then we don't really need to do it, do we? And if we do "mean something" by our touch, it's probably not appropriate for the workplace, is it?

## ● ● ● ● ● ● ● ● ● ● ● ● Rule #2

**Actually . . . don't look, either.**

Leering. Ogling. "Scoping." Staring.

The "look but don't touch" rule may not actually cover it. Looking at co-workers in a sexual way can be just as offensive. It's offensive when a co-worker gives an important presentation in a meeting, and some of the attendees spend more time evaluating the presenter's sexual attractiveness than listening to the message.

Some may argue that looking does no harm, and is, in fact, some kind of biological imperative, particularly for males. Jim Cormier, a writer for the Canadian magazine *Chatelaine* even defends "ogling" as part of the bedrock of civilization as we know it:

*Soon, the practice not only was helping to precipitate the procreation of the species but became the very lifeblood of the higher arts. Consider poetry. Could Lord Byron have scrawled something as mellifluous as, "She walks in beauty, like the night / Of cloudless climes and starry skies," if he hadn't had a look-see at the alehouse? No.*

*Most half-decent poetry that survives to this day—the kind by dead people who knew how to rhyme—was inspired by ogling, plain and simple.*

Humans are sexual creatures, and it would be almost impossible or abnormal not to notice when an attractive person was in view. But once we've noticed that individual, and even made conscious note of their attractiveness, we're faced with a choice: 1) we can spend long moments undressing that individual with our eyes and admiring his or her physical attributes; or, 2) we can get on with our lives.

Now, if we choose option #1, we probably do so because it brings some measure of pleasure or titillation. Unfortunately, it also makes the person who is the object of our staring somewhat uncomfortable and prevents both of us from concentrating on whatever task is at hand. While it may be difficult not to notice attractive people, it's not really necessary to take the time to stare at them, is it?

Obviously, option #2 is the best answer for the workplace environment. So, you notice that the person is attractive. That's nice. Now get back to what you were doing. No big deal.

Sometimes, it's not that easy to do. One male supervisor described being in a meeting with an attractive female subordinate. As they talked about matters of importance, he couldn't help but be distracted by her beautiful hazel eyes. They were such a pure and piercing color that, try as he might, his subconscious kept screaming at him, "Boy, she has beautiful eyes!" To his credit, the supervisor continued to focus his attention on the discussion and made an extra effort to listen carefully and put aside the distracting thoughts. In doing so, he sent the message that her ideas and input in the workplace were more important to him than her physical beauty. He sent that message to her, and more importantly, he sent that message to himself.

Remember, leering or staring is not a biological requirement; it's a conscious choice. And it's a bad choice for the workplace.



# Rule #3

**Do unto others as you would have them do to you, your spouse, child, brother, sister, mother, or father.**

Before you open your mouth to tell a joke, make a funny comment, or pay an inappropriate compliment, ask yourself the following questions:

*How would I like it if someone said or did that to my spouse, or my child, or my sibling, or my parent?*

*Would I say or do that if my mother or father were present in the room? Or my spouse? Or my child?*

We are all capable to some extent of modifying our behavior to meet the circumstances in which we find ourselves. There are lots of things we might say or do among a group of friends that we would never repeat in front of our grandmother. And we certainly hold conversations with our spouse that would be off-limits to casual acquaintances.

When you are in the workplace, your actions are public. What you say and do in the workplace is probably different in nature than how you behave in the sanctity and privacy of your home. There's nothing abnormal or new about that. The workplace is public and you should behave accordingly.

When in doubt, don't say it, don't do it.



# Rule #4

## **Harassment is in the eye of the beholder.**

It doesn't matter how you intended your behavior to be perceived, it's how the behavior was received that matters. The intent of your behavior is not as important as the impact your behavior has on others.

When a child knocks over the cookie jar and breaks it into hundreds of tiny shards, the statement "I didn't mean to" doesn't undo the damage, does it? We have to make sure that our actions don't have unintended consequences.

How can you do that? Well, first of all, you need to be conscious of the impact your actions have. You should notice it when your behavior makes others uncomfortable.

You should also be aware that men and women often perceive conduct in different ways. While some men might find sexual comments or advances in the workplace to be flattering and stimulating, they should know that most women find them offensive and intimidating. Comments that might seem inoffensive to many men may have a different impact on most women. You should be conscious of what you say and do, and what impact your actions have on others.

If certain behavior appears to be unwanted, stop the behavior.

# Rule #5

## **Use common courtesy and common sense.**

When you treat the people you work with decently and with genuine respect, you are highly unlikely to have problems with sexual harassment.

Courtesy sometimes seems to be a lost art. Our lives are so fast-paced, our focus so inward, that we forget to be nice to the people around us.

And remembering that the workplace is a place for business, for productivity, for service, and polite conduct is just common sense, isn't it?

Preventing sexual harassment doesn't involve learning new, invasive, politically-correct, reactionary rules. It just means being genuinely nice to people, treating them with respect, and behaving with some sense of decorum.

It's not really all that hard when you think about it. Okay, so maybe it's no game of checkers, but the rules really aren't all that hard to grasp, are they?

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# Conclusions

As we establish our new roles in today's workplace, as we create new working relationships between men and women in an increasingly diverse array of jobs, we all need to adjust our attitudes and behaviors. We can—and should—adapt to the changing realities of today's work force.

Sexual harassment is an indicator that these changes are being resisted or ignored by individuals within our organizations. We can all learn to accept our new roles and alter our behavior where necessary to insure that hospitable working conditions exist for each of us.

The precise definition of sexual harassment seems to change and evolve with every new court decision, but there are basic standards of conduct we can all follow to avoid problems. These standards or guidelines are not severe or unusual. They don't have to create a sterile environment at work. They aren't intended to "take the fun out of the workplace." They are, rather, intended to make the workplace more comfortable for everyone.

It's likely that following this training on sexual harassment, people in your organization will be extremely conscious of their behavior at work. They may feel as if they are "walking on pins and needles," being extra careful to avoid the slightest hint of conduct which might border on sexual harassment. Workplace relationships may seem strangely stilted for a short while. Others may boldly test

the boundaries, much like children seeing exactly how much their parents will let them get away with. These are not unusual responses to sexual harassment training.

Eventually, the caution in the workplace should decrease. But the careful respect for each other and each other's feelings should remain.

*For Preview Purposes Only*

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# Answers to Exercises

## What Type of Sexual Harassment Is It? (Pages 20-29)

- Case #1: . . . Sexual Favoritism
- Case #2: . . . Quid Pro Quo Harassment
- Case #3: . . . Third-Party Harassment
- Case #4: . . . Sex-Based Harassment
- Case #5: . . . Hostile Environment Harassment
- Case #6: . . . Quid Pro Quo Harassment
- Case #7: . . . Sex-Based Harassment
- Case #8: . . . Third-Party Harassment
- Case #9: . . . Sexual Favoritism
- Case #10: . . . Hostile Environment Harassment

## Is It Sexual Harassment, Or Not? (Pages 30-34)

- Scenario #1: . . . Not Harassment
- Scenario #2: . . . Harassment
- Scenario #3: . . . Not Harassment
- Scenario #4: . . . Harassment
- Scenario #5: . . . Not Harassment